FILED
JUN 29 1988
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

STATE OF IOWA,)

Plaintiff-Appellee,)

vs.)

MARK ANTHONY HOVIND,)

Defendant-Appellant.)

Filed June 29, 1988 256

8-131
87-644

Appeal from the Iowa District Court for Black Hawk County (No. 16208), Robert E. Mahan, Judge.

Defendant appeals from the judgment entered against him after his conviction in a jury trial for first-degree burglary and second-degree arson. **JUDGMENT OF DISTRICT COURT AFFIRMED BY OPERATION OF LAW.**

Charles L. Harrington, Chief Appellate Defender, and Linda Del Gallo, Assistant Appellate Defender, for defendant-appellant.

Thomas J. Miller, Attorney General; Christie Scase and Pamela Greenman Dahl, Assistant Attorneys General; and Timothy J. Gallagher and Christine O. Corken, Assistant Dubuque County Attorneys, for plaintiff-appellee.

Heard by Oxberger, C.J., and Donielson and Schlegel, JJ. but considered en banc.

PER CURIAM

The court being equally divided, the judgment is affirmed by operation of law. Iowa Code § 602.4107 (1987).

AFFIRMED.

For affirmance: Donielson, Hayden and Habhab, JJ.

For reversal: Oxberger, C.J., and Schlegel and Sackett, JJ.